

**Delegation of the  
United States of America  
to the  
World Summit on Sustainable Development  
Johannesburg, South Africa  
August 26 – September 4, 2002**



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**4 September 2002**

**PRESS BRIEFING  
ON  
GOOD DOMESTIC GOVERNANCE**

**30 AUGUST 2002**

**BRIEFERS:**

**KELLY JOHNSON, PRINCIPAL DEPUTY ASSISTANT ATTORNEY  
GENERAL, DEPARTMENT OF JUSTICE**

**AMBASSADOR SICHAN SIV, U.S. REPRESENTATIVE, UN ECONOMIC AND  
SOCIAL COUNCIL**

**JAMES GARNER, MAYOR, HEMPSTEAD, NEW YORK**

**KELLY JOHNSON:** I am Kelly Johnson the Principal Deputy Assistant Attorney General at the Environment and Natural Resources Division at the Department of Justice in Washington DC. And I am going to talk briefly about governance from the federal perspective. Ambassador Siv can address the International aspects and Mayor Garner can talk about government issues at the local level. The United States firmly believes that good domestic governance is the key to achieving sustainable development. By domestic governance, we refer to a broad range of issues that support the ability of governments and the public to make sound decisions about an act in the interests of promoting sustainable development at the national level. The elements of good governance - because it is sometimes an elusive term from our perspective – include effective institutions, education, science and technology for decision-making, public access to information about laws, policies and also releases into the environment, stakeholder participation in governmental decisions, and finally public access to justice.

At the Summit, the United States has proposed strong and clear language in the draft plan of implementation which would call on all parties to strengthen their laws, institutions and enforcement. It would also call for fighting corruption, ensuring transparency, and promoting public access to information decision-making and justice. This position directly supports the principles agreed to in 1992 at Rio, is consistent with the consensus reached at Monterrey, and is reflected in a wide variety of U.S. laws, programs, and institutions. We continue to press for inclusion of language on good domestic governance and are hopeful of securing positive language in the final text. At this point the G-77 and China have recently shown some signs of being willing to accept the text we proposed, even though they have traditionally opposed this language. Nevertheless success is not guaranteed and it is something we are going to be striving for over the next couple of days.

Outside of the negotiations, the U.S. has been pressing its positions on good domestic governance throughout the Summit. We have participated in a number of side events, sponsored by NGO's and countries on good domestic governance. In fact, prior to the World Summit, I actually attended an International environmental law conference up in Durban, where we talked about enforcement capacity and efforts to build effective enforcement in developing countries. There were also U.S. representatives who participated in a judicial conference with a similar focus on a fair and impartial judiciary. Again, these efforts have all been designed to build capacity for good domestic governance throughout the world after the Summit. We are going to continue to press this message on good governance and our position both at the Summit and thereafter. Thanks.

**QUESTION: Marie-Claire Ferrer, French Press Agency:** I wanted to know if you could elaborate a little bit on this proposal you made on good governance, that showed some willingness by G-77 and China. To what point is this willingness, where was that progress?

**KELLY JOHNSON:** Well, I think the fact that it has not been opposed and we have been working on the language with the other countries and that they have been willing to sit down and talk about the terms of it - even though we don't have a draft agreed on final language. That is more progress than we have seen in the past and so we are hopeful that we will be able to get them to agree on the language. Just talking about the importance of good governance (through countries) throughout the world.

**QUESTION: Joan Paras, KFER Radio, Santa Cruz, California.** When the United States talks about implementation and strengthening of laws, institutions and enforcement, my interest is in what we are doing in the United States. It seems this is related to the parliamentarism they are discussing across the way with governments, and specifically with the Department of Justice - where enforcement is an issue - what types of local programs. Would this be like the COPS programs? There are so many programs that have been ...?

**KELLY JOHNSON:** I will talk about the federal level and then the Mayor may have something to add from his experiences at a local level. When I talk about enforcement, I talk about something that in a way we take for granted in the United States, where we have laws on the books that have to do with environmental and natural resource protection and where there is actually the capacity and the ability to go and enforce those laws. We have the investigative resources, where in the United States we have the FBI or the Environmental Protection Agency or the Coastguard, for example. Not only can we investigate alleged violations of the law, whether they be civil or criminal, but we actually have the ability to prosecute them in the judicial systems with some assurances that we may end up solving the problem or at least having the ability to redress it. There could be many components to that.

**QUESTION: Joan Paras, KFER:** Well, on a local level I would be interested in seeing where the United States has implemented institutions for the enforcement of violations or impediments to the implementation of sustainable developments.

**MAYOR GARNER:** In terms of a local perspective, you have laws. For example, the Environmental Protection Agency (EPA). If in fact someone contaminates our area, they are prosecuted to the fullest extent of the law. In my state, the New York Department of Environmental Compliance (DEC) laws are greater than the federal government's. They have stiff laws in New York State, so much so that Governor Pataki had to talk about relaxing the laws so as not to chase businesses out of state, because as I mentioned, they have some really tough laws insofar as environmental conservation is concerned in New York State.

**QUESTION: Erica De Beer, South African Press Association:** Firstly, can you give us an indication of what the wording is that you are proposing and secondly whether the issue of the situation in Zimbabwe has cropped up at all in your negotiations and if so, could you elaborate on that?

**KELLY JOHNSON:** I will answer the second part of your question. No, the issues in Zimbabwe have not arisen in the context of the good governance discussions and the language is actually being talked about right now. So I don't have exactly what they are discussing other than the general language that the United States proposed, about the importance of good governance and institutions in the specific elements, building on what happened at Rio and Monterrey.

**QUESTION: Jonathan Leake, Sunday Times, London:** Are countries which deny the votes for woman and other groups well governed? Particularly thinking about Saudi Arabia in that context and in addition we have got countries like Gabon and Togo where you have had people running it for, I think forty years, in the case of both those countries. They are quite stable, but are they well governed?

**KELLY JOHNSON:** I think that governance has many components to it and I think we could obviously spend a long time debating whether you are going to have an effective government or if there is a portion that is excluded from it.

**QUESTION: Jonathan Leake:** Can we say Saudi Arabia is well governed or is practicing good governance when one denies the vote to women?

**KELLY JOHNSON:** Can I opt out now that we are the Department of Justice and not the Department of State? I can talk to you a lot more about governance in the United States and institution building than in developing countries, but I can not respond to your question.

**AMBASSADOR SIV:** On 14 March, a week before the Monterrey conference, President Bush announced that the U.S. would increase by 50% the level of development assistance. That would bring the level to \$15 billion dollars in 2006. Three commitments that the potential recipient countries need to make: one is good governance; two is investment in its people - meaning education and health; and third is sound economic freedom. As you can see, good governance is and should always remain a major component of development issues. It is not just the United States' view but the United Nations' view also. If you go to UNDP offices you will see a big poster saying "Poverty Breeds Corruption," and that is the view of many donor countries as well.

Good governance is important and I think one of you mentioned Zimbabwe. In the middle of July, I think July 8, there was a meeting at the United Nations, in which I represented the United States. It was about appeals to respond to the food crisis in Southern Africa. As you know the United States already pledged and transported half a million tons of food to Southern Africa, and still thirty million people are going to face starvation by the end of the year. Half of these are in Zimbabwe. A lot of people think that it was the result of drought, but more of poor governance in Zimbabwe and you will see this issue come up quite a bit at the Summit level and Prime Minister of the UK and other people are coming as well. Good governance, as I said, will remain a very key component of development. And we view development as a joint responsibility of developed and developing countries. But the bulk of responsibility is with the national government, they have to put their house in order. From our own experience, if you look at all the emerging economies, in Asia and elsewhere, they have these three components in their development policies. That is why they can take the road to prosperity.

**MAYOR GARNER:** Thank you very much. My name is James Garner and I am Mayor of Hempstead, New York and I am also Vice President of the United States Conference of Mayors. In my opinion you cannot have domestic government without components all over the government working together. All of us – federal, state and local government officials - have a role in protecting our citizens, providing them with jobs and affordable housing and other basic services, that are essential to ensuring a high quality of life. By working together we must make this happen.

Let us take the example of Brownfield redevelopment. Brownfields are older underutilized properties that have been abandoned for years, and not redeveloped due to a real or perceived environmental contamination. This causes development to occur, not in our cities, where the infrastructure already exists but on pristine farmland. It is estimated that there are over half a million Brownfield sites in the United States alone.

The Mayors have identified this issue as a major environmental and economic development problem. We could not live with the idea of abandoning thousands of acres of land, it is simply not sustainable. The Mayor's Conference is working with the businesses community, environmental groups and the federal government to identify the major impediments to redevelopment. This Administration recognizes the importance of this issue and asked congress to pass the law. This law assisted local and state governments, identified the Brownfield properties, cleaned up sites and allowed them to redevelop into productive uses. This type of cooperative effort was essential to help them address this issue. In order to have good governance to create sustainable communities, all levels of government must work in tandem with each other. This is the way we are striving to do it in the United States.

**QUESTION: Yukiko Ochi, Kyodo News, Japan:** My question is with regards to the relationship between good governance and what some countries say is the interference into internal affairs of the country. How do you see that relationship and what kind of stand do you have on that?

**KELLY JOHNSON:** I think there is obviously a fine line there, but in order to have good governance, you need to have public access to information. In the United States, we have a Freedom of Information Act, through which you can ask for that information. There is also a series of so-called open government laws, especially important when outside entities are involved and the trick is to find the line between a deliberate privilege from a government perspective, and then getting the public involved so that they are aware of what is going on.

**QUESTION: Jeremiah Marquez, Associated Press:** There has been talk about creating an International legal framework, to monitor companies.

**KELLY JOHNSON:** No.

**QUESTION: Jeremiah Marquez, Associated Press:** Okay. Would you support that kind of language though? Would you accept language that would create an International mechanism?

**KELLY JOHNSON:** I would imagine we would have some sovereignty issues associated with that. I have not heard any discussions.

**QUESTION: Jeremiah Marques, Associated Press:** Really? Not at all?

**KELLY JOHNSON:** Not here at the Summit no. Sorry.

**AMBASSADOR SIV:** I should point out that U.S. corporations are operating under the Foreign Corrupt Practices Act of the United States. This is a very rigorous set of rules, laws and regulations that prohibit U.S. corporations being involved in what I call UTM - here you have ATMs and when you need cash you go to a machine. In many countries

you have UTM - Under the Table Money. So U.S. corporations can get into a lot of trouble. They can face jail sentences or whatever if they get involved with UTM.

**QUESTION: Jeremiah Marques, Associated Press:** This would be language regarding any violations of the final document - to enforce the final document out of the Summit.

**AMBASSADOR SIV:** I do not know. My colleague, Kelly Johnson, has mentioned to you about that.

**QUESTION: U.S. Official:** Thank you very much. I am from the State Department and am one of the main negotiators, especially on the governance text, across the street and I just want to confirm what has been said. This issue came up primarily at the Bali Prepcom and there was language that was agreed in what is now Chapter 10 of the text near the end that reflects the corporate responsibility issue. The question of whether there should be some sort of International legal framework was raised and was not adopted by the parties and that text was agreed in the context of Bali, and so has not been reopened here. I hope that answers your question. Also, I should add, the document we are negotiating here is not a binding document, it is not a legally binding document so there is no question of enforcing it as such.

**QUESTION: Joan Paras:** Mr. Mayor, the United States Conference of Mayors endorsed the Earth Charter, when was that?

**MAYOR GARNER:** About one year ago.

**QUESTION: Joan Paras:** Does the United States have the legal framework in place to accommodate all of the provisions of the Earth Charter? For example, the Earth Charter embodies the precautionary principle?

**MAYOR GARNER:** No comment on that issue.

**QUESTION: Abhik Chande, AFP:** I wanted to ask you, Jean Cretien of Canada has said that he intends to raise Zimbabwe on the sidelines of the Summit and some countries have indicated they might back tougher sanctions. What is the U.S. stand on this? Will you support such an initiative?

**AMBASSADOR SIV:** As you know, first, we do not recognize the election result in March of this year. I happen to have a copy of my statement at the UN on July 18. I will be happy to make this available if you would like, you can go to the USUN website - [www.un.int/usa](http://www.un.int/usa) - and go to press release archives, July 18, for a copy of my speech.

We condemn the malicious policies of the Mugabe regime that created this disaster, which is one result of the drought and is causing about six million people to face starvation by the end of the year. So in order to save time I would suggest you go to that website and get a copy of that statement.

**QUESTION: Abhik Chande, AFP:** My question was, if it is brought up on the sidelines of the Summit will you back such proposals and possibly a call for tougher sanctions or any other measures?

**AMBASSADOR SIV:** I think actually it is up to Secretary Powell to decide that but as far as the U.S. position is concerned, first it did not recognize the election result and we already condemned the policies of Mugabe.

**QUESTION: Erika de Boer, South African Press Agency:** Some of the counter-arguments, including corporate governance, as a prerequisite for development aid is that some countries simply do not have the means to get good governance going. What is your comment to that?

**AMBASSADOR SIV:** In early July, the Economic Social Council had its session and Secretary of the Treasury, Paul O'Neill, came to give a speech and again you can go to the website and go to July 1. That was the date that he gave a speech. He primarily reported on his trip to Africa, as you probably remember he went with Bono. The commitment should be made. I don't know how we are going to evaluate the level of commitments but if we see that there is a political willingness by the national government to make those commitments or those commitments have been made already, I think that makes them eligible for the \$5 billion dollars per year increase in our level of assistance.

**QUESTION: Ron Bailey, Reason Magazine:** My question is for Ms. Kelly. Is there anything explicit in the good governance language establishing a linkage between the creation of democratic institutions and honest bureaucracies at all or is that supposedly encompassed by this rather vague phrase "effective institutions"?

**KELLY JOHNSON:** I do not know if I consider it a vague phrase but there is not a direct linkage...

**QUESTION: U.S. Official:** The answer is, you may look at the text of Paragraph 146, which contains the U.S. proposals made at Bali. Those are currently under active discussion over at the Convention Hall. We have scaled back those proposals in order to meet some of the concerns of G-77 and China, and I would say there are not linkages as such but we have gone through a whole series of issues related to domestic good governance and cover quite a broad array of them. We have tried to keep the spirit, including much of the content of what you will find in Paragraph 146, in our current proposals, and I am pleased to report that those are going pretty well. Even this morning, we have been negotiating that and we are hopeful that we will have some very positive language on the subjects you mentioned in the text when all of this finishes.

**QUESTION: H. Rossouw, American Prospect Magazine, Washington, D.C.:** Can you just explain to me a relatively...uninformed, clearly there is a really great legal framework within the United States, if the actions of a corporation have ramifications for the environment that break a U.S. law there is a very strong legal framework to deal with that. But seeing that we are now in the era of globalization what happens when a U.S.

corporation that is operating globally - in other words in territory that is not U.S. territory and breaks a U.S. law on the environment that has ramifications for people who are not U.S. citizens, what avenues are available to non-U.S. citizens to seek justice from corporations that have damaged their environment?

**KELLY JOHNSON:** I guess I would go back to the answer from before in terms of sovereignty of each nation to set the laws for their citizens. The United States happens to have pretty progressive environmental laws and natural resources laws and part of what we are trying to do in the efforts of capacity-building and good governance is to go out there and actually give not only the talk but also real life examples of how in the United States a law can be violated and the process we go through to hopefully have a deterrent effect and hope that it does not happen again.

Thank you.

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